

desire is this, and I did not intend to say a word in reference to it. I am not prepared to draw an article such as ought to be engrafted in the constitution amidst such confusion as this. I would give the city three judges. If she requires more—and can show that she requires more—I will give her four judges. Two of these judges shall have civil common law jurisdiction, and one of them shall have common law jurisdiction with chancery jurisdiction combined with it. I would apportion these subjects of jurisdiction among these judges, whether they have two or three. If three, I would give them a common law jurisdiction, a superior court, and common law jurisdiction, and equity jurisdiction. Then I would constitute the third judge a criminal judge, and would invest him with all criminal jurisdiction, except capital cases, and these I would give to the superior court, which, I think would have time to discharge this duty.

I would beg leave to call the attention of gentlemen who represent the city of Baltimore, to another idea. I would make it obligatory upon the Legislature to give them a mayor's court, with a recorder, which exists in every city of the Union of any magnitude. In that court, they could discharge their criminal jurisdiction, and relieve their civil judges from any improper burden in the discharge of their duties. Then I would defer to the liberal proposition of the gentleman from Somerset, investing in the Legislature the power of increasing these judges when in their opinion the increase of business required more judges for its prompt discharge. These are my general views. If the gentlemen from Baltimore city do not themselves present a proposition or agree to some one among themselves, I will endeavor, at the proper time to offer a proposition such as I have indicated. I am not at all ambitious of appearing upon the journal as the mover of the proposition.

The said 11th section was then adopted as amended.

The 12th section of said report was then read.

Mr. STEWART, of Balt. city, moved to amend the 12th section by inserting after the word "dollars," in the third line of said section, the following:

"Provided, that where the plaintiff or plaintiffs shall recover less than the sum or value of five hundred dollars, the said plaintiff or plaintiffs shall not be allowed, but at the discretion of the court may be adjudged to pay costs."

Mr. STEWART. The single object of this amendment is to guard against the consequences of entering suits in the superior courts which should have been entered in the court of common pleas. A man may go into this court, thinking he has a claim of over \$500, and may recover only \$499. Without this provision, there would of course be a *non pros*. All the trouble and expense of that investigation would amount to nothing; and a new suit must be instituted in the other tribunal. My object is to enable the plaintiff, in such a case, to obtain the benefit of the verdict of the jury. But if the court think that there has been an attempt to fabricate a jurisdiction, as a penalty therefor they may sen-

tence him to pay costs. The 20th section of the act of 1789 contains the very words we have adopted here.

Mr. DORSEY moved to amend said amendment by striking out these words "not be allowed, but at the discretion of the court may be adjudged to pay costs;" and substituting in lieu thereof the following:

"Be allowed his costs or adjudged to pay costs at the discretion of the court."

Mr. DORSEY. I wish to leave the whole subject to the discretion of the court. A defendant disposed to take advantage of a plaintiff, may subject him to enormous expense, without any reasonable expense whatever. I have a claim of \$10,000, for instance, composed of different items. To sue for that, I must join them all in one action. Perhaps most of them are barred by limitation, if the defendant sees fit dishonestly to present such a bar. If I sue for less than \$500, the defendant may come in and show that I am entitled to more. If I sue for more, he pleads the limitation. Or suppose I have a claim against him of \$10,000; and he has claims against me of \$9,500, but which I do not know to be in his hands. If I sue in the superior court, he pleads the set off, and reduces the amount to less than \$500. I cannot sue in the lower court, because I cannot compel him to plead the set off. It appears to me that the court should have discretion over the whole subject of costs. I think some protection is due to the plaintiff as well as to the defendant.

Mr. GWINN remarked that there was no peculiar hardship attaching to this case, above that which had resulted from the action of the law as it had stood for sixty-two years. He would prefer to abide by the experience of sixty-two years, rather than to the reflections suggested this morning.

The question being taken upon the amendment, resulted, upon division, yeas 30, noes 30—so the amendment was not agreed to.

The question then recurred on the adoption of the amendment as offered by Mr. Stewart, of Balt. city.

Determined in the affirmative.

Mr. MORGAN moved further to amend the 12th section by adding at the end thereof the following:

"And shall have and exercise all the powers and jurisdictions now exercised by Baltimore county court, sitting as a court of equity."

Mr. BRENT, of Balt. city, moved that the question be taken by yeas and nays, which being ordered, appeared as follows:

Affirmative—Messrs. Chapman, Pres't, Morgan, Blakistone, Dent, Hopewell, Ricaud, Lee, Chambers, of Kent, Mitchell, Dorsey, Wells, Weems, Bond, Brent, of Charles, Merrick, Buchanan, Bell, Chandler, Lloyd, Colston, James U. Dennis, Dashiell, Williams, Hicks, Hodson, Goldsborough, Eccleston, Chambers, of Cecil, Miller, McLane, McCubbin, Bowling, Spencer, George, Dirickson, McMaster, Hearn, Fooks, Jacobs, Thomas, Shriver, Gaither, Biser, Annan, Sappington, Stephenson, McHenry, Thawley, Schley, Fiery, Neill, John Newcomer, Har-